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SURFACE MINING

Management of the Abandoned Mine Land Fund



144682



United States
General Accounting Office
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Resources, Community, and
Economic Development Division

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July 25, 1991

The Honorable Malcolm Wallop
United States Senate

The Honorable Conrad Burns
United States Senate

This report responds to your June 25, 1990, request that we examine certain aspects of the Abandoned Mine Land (AML) program, established by the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Administered primarily by the Department of the Interior's Office of Surface Mining Reclamation and Enforcement (OSMRE), the AML program funds the reclamation of eligible mine sites abandoned prior to the act's passage. The Rural Abandoned Mine Program (RAMP), administered by the U.S. Department of Agriculture's Soil Conservation Service (SCS), also receives AML program funding.

You expressed concern about excessive AML program funds potentially being used for administrative and overhead expenses¹ instead of actual reclamation and the possibility that available funds might not be devoted to the most pressing reclamation projects. As agreed with your offices, this report examines (1) the amount of AML funds expended for administrative costs for fiscal years 1985 through 1990 and (2) whether reclamation projects are being funded in accordance with the priorities set forth in the 1977 act.

Results in Brief

For fiscal years 1985 through 1990, OSMRE and SCS expended about \$1.3 billion in AML funds. Agency officials and records indicate that about \$363 million, or 28 percent of these funds, was spent on administrative activities. More specifically, OSMRE provided \$991 million in grants to 26 eligible states (includes states and Indian tribes eligible to receive AML grants), of which \$219 million represented administrative grants designed to fund the operation of each state's AML program. The remaining \$772 million was provided in the form of construction grants. In addition, OSMRE estimates it spent \$137 million for administering the overall AML program and \$100 million on emergency projects nationwide and reclamation projects in states not eligible for grants. During this

¹In this report, the term "administrative and overhead" costs will be referred to as "administrative" costs. These costs (also called nonproject-related costs) include all expenses not directly related to actual reclamation projects.

6-year period, SCS estimated it spent about \$68 million for the RAMP program, of which \$6.6 million was for administrative costs.

We found that some states include project-related costs, such as project design and monitoring, in their administrative grants, while other states include small amounts of administrative expenses in their construction grants. Consequently, a precise figure on the amount of AML funds actually spent on administrative expenses is not readily discernible.

States generally fund reclamation projects in accordance with the priorities set forth in SMCRA. Each state participating in the program has its own OSMRE-approved ranking system for project proposals to help guide project selection; annual oversight reports prepared by OSMRE field office staff found few major project selection problems during fiscal years 1985 through 1990. Similarly, industry and environmental groups we talked with had few complaints with state project selection procedures.

With respect to RAMP project selection, SCS has a priority sequence similar to the one set forth in SMCRA. According to SCS and OSMRE officials, RAMP projects funded between fiscal years 1985 and 1990 generally fell under priorities 1 and 2 (the highest of the six priorities set forth in SMCRA).

Background

The AML program was established to reclaim mine sites left without adequate reclamation prior to SMCRA's passage on August 3, 1977, and for which there is no continuing reclamation responsibility under state or other federal laws. Reclamation of abandoned mine sites is financed primarily through fees levied on current coal production. Coal mine operators generally pay 35 cents per ton of coal produced by surface mining and 15 cents per ton of coal produced by underground mining.

The Secretary of the Interior, acting through OSMRE, administers the AML program, including the approval of state reclamation plans. A state reclamation plan, in part, identifies the abandoned mine areas to be reclaimed and the specific criteria for identifying and ranking projects to be funded. Once its reclamation plan is approved, a state assumes exclusive responsibility and authority to reclaim abandoned mine sites within its borders. Twenty-six states have approved plans.

To help states carry out their reclamation plans, OSMRE annually awards grants to finance the construction of specific reclamation projects over a

3-year period, as well as grants to administer the state reclamation programs. OSMRE is then responsible for monitoring and overseeing the progress and quality of each state's program.

OSMRE conducts other abandoned mine reclamation activities as well. It manages reclamation projects in states without approved reclamation plans and conducts emergency projects nationwide for such problems as landslides or mine fires. In addition, OSMRE collects AML Fund fees from coal mine operators.

AML Fund fees also support Agriculture's RAMP program. As one of SCS's national soil and water conservation programs, RAMP provides assistance to landowners and land users for reclamation, conservation, and development of rural abandoned lands damaged by past coal mining practices. RAMP projects are generally smaller than those funded by OSMRE and also differ in that they involve a contract or "partnership" directly with the landowner, who must apply to SCS for RAMP assistance.

All reclamation projects funded from the AML Fund must reflect the priorities set forth in SMCRA. There are six project priorities: priorities 1 and 2 involve the protection of public health, safety, and general welfare; priority 3 includes the restoration of land and water resources and the environment; and priorities 4 through 6 involve research and development projects, the repair or replacement of public facilities, and the development of publicly owned land. (App. I provides more detailed information on the priorities set out in SMCRA).

Although the AML program primarily emphasizes the reclamation of abandoned coal mine sites, abandoned noncoal sites may also be reclaimed if the governor of the state certifies that (1) all coal-related reclamation projects in the state have been addressed or (2) the impacts of a noncoal mine constitute a hazard to the public's health and safety. From 1977 until November 1990, 11 states used about \$138 million of the AML Fund for noncoal reclamation.

Administrative Costs Are Estimated to Account for 28 Percent of AML Program Expenditures

Administrative costs associated with the AML program during fiscal years 1985 through 1990 were about \$363 million, or 28 percent of the \$1.3 billion expended, according to agency officials and records. Eligible states received \$219.1 million in administrative grants to fund their AML program operations; OSMRE spent about \$137.3 million administering the overall AML program; and SCS expended \$6.6 million to administer RAMP. The agency records, however, do not provide a precise figure on the amount of AML funds spent on administrative expenses because of the manner in which administrative costs were accounted for. Actual administrative costs could not be readily determined without an exhaustive review of thousands of reclamation project files across the country.

State AML Administrative Costs

For fiscal years 1985 through 1990, administrative grants to the 26 states totaled \$219.1 million, or 22 percent of total grant funding. As shown in table 1, total administrative grants ranged from \$25.9 million to \$57 million in fiscal years 1985 through 1990, or 14 to 41 percent of total grant funding, respectively. Construction grants totaled \$772.1 million during the 6-year period.

Table 1: AML State Administrative and Construction Grant Totals, Fiscal Years 1985-90

Dollars in Millions				
Fiscal year	Administrative grants	Construction grants	Total	Administrative percentage
1985	\$25.9	\$155.5	\$181.4	14
1986	33.0	98.4	131.4	25
1987	35.5	107.9	143.4	25
1988	37.1	155.7	192.8	19
1989	30.6	172.1	202.7	15
1990	57.0	82.5	139.5	41
Total	\$219.1	\$772.1	\$991.2	22

According to an OSMRE official, administrative grant totals have fluctuated from year to year for several reasons: (1) variations in the number of months actually funded by each year's administrative grant, as a result of grant extensions or delays in grant approvals, and (2) a buildup in staffing levels by some states to increase their ability to more quickly obligate construction funds.

Between fiscal years 1989 and 1990, the amount of administrative grants increased dramatically, from \$30.6 million to \$57 million. Construction grants, on the other hand, decreased during the same period, from \$172.1 million to \$82.5 million. The increase in administrative

grants, according to OSMRE officials, occurred largely because Pennsylvania received two administrative grants in fiscal year 1990, totaling \$24.1 million, while receiving none in the prior fiscal year. The fiscal year 1990 decrease in construction grants occurred mainly because of lower funding to Kentucky, Pennsylvania, and Wyoming. According to an OSMRE official, these three states used portions of their fiscal year 1990 construction grants to add new projects or supplement projects in previous construction grants.

The administrative grant totals may not fully represent actual administrative costs because while OSMRE awards separate “administrative” and “construction” grants to states, OSMRE field offices have discretion over what costs states can include in their grants. As a result, some states may count some project-related costs as administrative costs and some administrative costs as project-related costs. For example, according to a state official, some of Montana’s administrative grant funds are used for project-related design costs. Similarly, Pennsylvania officials report that the state uses administrative grant funds for project-related design and monitoring costs. Conversely, according to officials from several other states, some state construction grants contain small amounts of expenses that could be considered administrative in nature.

Other AML Administrative Costs

Besides grants to states, OSMRE estimates that it spent \$137.3 million between fiscal years 1985 and 1990 to administer the overall AML program. These funds were spent on a variety of administrative activities, including the collection of fees from active coal mine operators, the management of federal reclamation projects, executive direction of the program, administrative support, rent, and utilities. In addition, OSMRE officials estimate they spent approximately \$100 million to fund emergency projects nationwide and to construct projects in states without approved reclamation plans.

RAMP Administrative Costs

SCS estimates it spent \$6.6 million to administer the RAMP program between 1985 and 1990. This estimate is based on a cost allocation formula SCS developed to track administrative costs.

SCS routinely divides its funding into two categories—financial assistance and technical assistance. The financial assistance category includes only costs associated with actual reclamation; the technical assistance category funds everything else, including administrative costs, but also some project-related costs such as design and monitoring.

SCS officials informed us that starting in the early 1980s OSMRE began expressing concern about the amount of RAMP's technical assistance costs (which OSMRE equated to administrative costs). Subsequently, SCS developed its cost allocation formula to put its administrative expenditures on what they believe is a more comparable footing with OSMRE administrative expenses. Additionally, according to SCS officials, Department of the Interior appropriations acts often mandate SCS to limit RAMP administrative costs to 15 percent. As shown in table 2, SCS administrative cost estimates were below the 15-percent benchmark.

Table 2: RAMP Administrative and Project Cost Estimates, Fiscal Years 1985-90

Dollars in Millions

Fiscal year	Administrative costs	Project costs	Total costs	Administrative percentage
1985	\$1.0	\$9.9	\$10.9	9
1986	.9	7.9	8.8	10
1987	1.2	8.1	9.3	13
1988	1.2	13.5	14.7	8
1989	1.2	11.3	12.5	10
1990	1.1	10.9	12.0	9
Total	\$6.6	\$61.6	\$68.2	10

Projects Are Being Funded in Accordance With SMCRA Priorities

AML funds collected under SMCRA can be used only for projects that meet specific eligibility requirements defined in the act. Recognizing that funds will not be available to reclaim all pre-existing abandoned mine sites, the act established priorities so that higher-priority problem areas would be addressed first.² According to our survey of 14 state AML programs, states are generally reclaiming eligible, high-priority projects as required by the act. In addition, SCS is funding high-priority RAMP projects.

State Project Selection Process

We found that the 14 states included in our review are generally undertaking reclamation projects consistent with the act's requirements. From 1977, when the AML program began, through fiscal year 1990, according to data supplied by the states and OSMRE, 93 percent of projects selected for reclamation fall under priorities 1 and 2, as shown in table 3. Prior

²Although SMCRA clearly delineates priorities for states to follow, states have some discretion in determining which projects to fund. According to a May 18, 1982, memorandum from the Department of the Interior's Office of the Solicitor, states and OSMRE have ample authority to fund lower-priority projects along with higher-priority projects as long as the total program shows that high-priority projects are being addressed.

to awarding construction grant funding to a state, OSMRE field office staff review state-supplied information justifying project eligibility and priority designation and visit each site. SMCRA outlines the ranking criteria used for designating project priority. SMCRA also allows states much discretion in determining which reclamation method to use. The act states that project plans and specifications do not have to be submitted to OSMRE for review because states have exclusive authority to implement the provisions of their program once it has been approved by OSMRE.

Table 3: Approved Projects by Priority for 14 States, Through Fiscal Year 1990

State	Number of projects approved, by priority level			
	Total	1-2	3	4-6
Alabama	208	184	24	0
Colorado	110	97	13	0
Illinois	316	219	97	0
Indiana	183	153	30	0
Iowa	16	16	0	0
Kentucky	502	461	35	6
Missouri	35	35	0	0
Montana	420	419	0	1
Ohio	372	371	1	0
Oklahoma	72	72	0	0
Pennsylvania	512	512	0	0
Virginia	150	150	0	0
West Virginia	348	348	0	0
Wyoming	146	127	19	0
Total	3,390	3,164	219	7
Percent	100	93.3	6.5	0.2

OSMRE field office oversight found few problems in state compliance with the project selection and ranking criteria in their approved AML plans. In addition, our evaluation of OSMRE annual state evaluation reports for fiscal years 1985 through 1990 noted few project selection issues. Furthermore, industry and environmental organizations we interviewed had few, if any, comments concerning state project selection procedures.

RAMP Project Selection

RAMP regulations require SCS to fund the highest-priority RAMP projects first and outline three priorities that are essentially the first three priorities set forth in SMCRA. According to SCS and OSMRE officials, projects

funded between fiscal years 1985 and 1990 generally fell under priorities 1 and 2.

SCS obtains project selection input from state and local RAMP committees.³ However, final project selection decisions are made by the SCS state representative (the state conservationist), who is responsible for ensuring that the highest-priority projects are funded and that all applications are evaluated on a statewide basis.

To avoid duplicate reclamation efforts, SCS generally discusses project selection choices with OSMRE and state AML offices. In addition, OSMRE and state officials serve on RAMP state committees providing input into the ranking and selection process. Since 1988, SCS has made certain that the majority of its projects are listed on the national inventory OSMRE maintains of AML sites. Some state AML agencies share lists of proposed projects with SCS representatives to keep them informed of their latest AML activities.

We conducted our review from September 1990 through July 1991 in accordance with generally accepted government auditing standards. We reviewed appropriate legislation; analyzed program documents; and interviewed officials from (1) OSMRE headquarters in Washington, D.C., and field offices in Illinois, Kentucky, New Mexico, Ohio, Pennsylvania, Virginia, West Virginia, and Wyoming; (2) SCS headquarters in Washington, D.C., and a field office in Pennsylvania; (3) 14 states with AML programs (Alabama, Colorado, Illinois, Indiana, Iowa, Kentucky, Missouri, Montana, Ohio, Oklahoma, Pennsylvania, Virginia, West Virginia, and Wyoming); and (4) industry and environmental organizations.

We examined summary data provided by OSMRE and state AML agencies on the priorities of the projects funded, but we did not independently verify the data supplied to determine whether the priorities were accurate. Regarding RAMP project selection, we obtained oral statements from SCS and OSMRE officials that projects funded between fiscal years 1985 and 1990 generally fell under priorities 1 and 2.

Actual costs for the administration of the overall AML program and for emergency projects and project construction in states without approved

³Local RAMP committees are generally made up of representatives from the local soil conservation district, while the state RAMP committees are generally made up of representatives from SCS, OSMRE, state AML and conservation agencies, and environmental organizations. These committees obtain public comments and make recommendations on project selection and program operations.

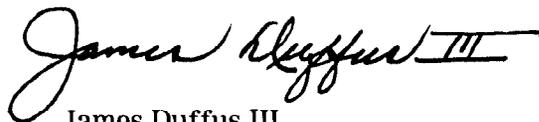
reclamation plans were not available for fiscal years 1985 and 1986. With concurrence from an OSMRE official, we used estimated costs calculated by averaging actual costs incurred for fiscal years 1987 through 1990.

The 14 states we surveyed represent 11 of the top 12 states on the basis of the estimated cost of reclamation, as well as 3 additional western states (Colorado, Montana, and Wyoming) to achieve greater geographic diversity.

We discussed the factual information obtained during the review with OSMRE and SCS officials and have incorporated their views where appropriate. However, in accordance with your request, we did not obtain official agency comments on a draft of this report.

As agreed with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies to the Secretary of the Interior, the Secretary of Agriculture, and other interested parties. We will also make copies available to others upon request.

Please contact me at (202) 275-7756 if you or your staff have any questions concerning this report. Other major contributors to this report are listed in appendix II.



James Duffus III
Director, Natural Resources
Management Issues

Project Priorities and Criteria Set Forth in SMCRA

Project Priority	Abandoned mine reclamation projects undertaken by the states must reflect the priorities established under SMCRA in the following order.
Priority 1	The protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices.
Priority 2	The protection of public health, safety, and general welfare from adverse effects of coal mining practices.
Priority 3	The restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices including measures for conservation and development of soil, water (excluding channelization), woodland, fish and wildlife, recreation resources, and agricultural productivity.
Priority 4	Research and demonstration projects relating to the development of surface mining reclamation and water quality program methods and techniques.
Priority 5	The protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, recreation, and conservation facilities adversely affected by coal mining practices.
Priority 6	The development of publicly owned land adversely affected by coal mining practices, including land acquired as provided in the act for recreation and historic purposes, conservation and reclamation purposes, and open space benefits.

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